

AMENDED IN ASSEMBLY MAY 26, 2010
AMENDED IN ASSEMBLY MARCH 11, 2010
AMENDED IN ASSEMBLY JULY 16, 2009
AMENDED IN ASSEMBLY JULY 2, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 220

Introduced by Senator Yee

February 23, 2009

An act to add Section 1367.27 to the Health and Safety Code, and to add Section 10123.175 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Yee. Health care coverage: tobacco cessation services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan and a health insurer are required to provide coverage for specified tests, including all generally medically accepted cancer screening tests.

This bill would require certain health care service plan contracts and health insurance policies that provide outpatient prescription drug benefits to also provide coverage for tobacco cessation services *that include specified courses of treatment and medication*, and would

~~impose limits on~~ *prohibit the imposition of copayments, coinsurance, or deductibles for the receipt of those services benefits.*

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Providing tobacco cessation counseling and medication is
3 one of the most clinically effective and cost-effective health
4 services available, second only to inoculations. Tobacco cessation
5 is 5 to 80 times more cost effective than pharmacologic
6 interventions used to prevent heart attacks.

7 (b) More than 70 percent of smokers wish they could quit
8 tobacco, and each year one of every two smokers attempts to quit.
9 However, the unassisted successful tobacco quit rate has remained
10 constant at less than five percent. Access to counseling and
11 pharmaceutical benefits doubles the successful quit rate and has
12 achieved quit rates of 25 to 30 percent. Experience in health plans
13 indicates that access to all cessation services saves four dollars
14 (\$4) for every dollar (\$1) invested.

15 (c) Each adult smoker costs employers one thousand seven
16 hundred sixty dollars (\$1,760) in lost productivity and one thousand
17 six hundred twenty-three dollars (\$1,623) in excess medical
18 expenditures. Men who smoke incur fifteen thousand eight hundred
19 dollars (\$15,800) more in lifetime medical expenses than ~~do~~ men
20 who do not smoke. For employers, the ultimate financial return is
21 between five dollars (\$5) and six dollars (\$6) for every dollar spent
22 on tobacco cessation.

23 (d) Because of member transfers between plans, financial
24 savings and tobacco-related disease reductions are effective only
25 if universally available to the entire insured population. Therefore,

1 a mandate on all plans and insurers to provide cost-effective
2 treatment is necessary and beneficial.

3 (e) It is the intent of the Legislature that this act diminish the
4 statewide economic and personal cost of tobacco addiction by
5 making tobacco cessation treatments available to all smokers.
6 California has successfully reduced tobacco consumption in the
7 last decade, but, despite that success, tobacco use is responsible
8 for the unnecessary deaths of 40,000 residents and remains the
9 leading cause of preventable death in this state. Annually, tobacco
10 addiction costs California \$8.6 billion in direct medical costs,
11 which is approximately 12 percent of all health care costs.

12 SEC. 2. Section 1367.27 is added to the Health and Safety
13 Code, to read:

14 1367.27. (a) A health care service plan contract, except a
15 specialized health care service plan contract, that is issued,
16 amended, delivered, or renewed on or after July 1, 2011, that
17 provides outpatient prescription drug benefits, shall include
18 coverage for tobacco cessation services that include two courses
19 of treatment in a 12-month period including personal counseling,
20 which may be telephone ~~or individual counseling, and~~
21 ~~FDA-approved medication for tobacco cessation, including~~
22 ~~prescription and over-the-counter medications. Covered treatment~~
23 ~~shall comply with, group, or individual counseling, and all~~
24 ~~medications approved by the FDA for the purpose of tobacco~~
25 ~~cessation, including all prescription and over-the-counter~~
26 ~~medications. Covered treatment shall follow recommendations in~~
27 the Public Health Service sponsored 2008 clinical practice
28 guideline, "Treating Tobacco Use and Dependence: 2008 Update,"
29 or its successors.

30 (b) No copayment, *coinsurance*, or deductible shall be applied
31 to ~~benefits for over-the-counter tobacco cessation medications.~~
32 ~~Copayments for each course or treatment or prescription shall not~~
33 ~~exceed fifteen dollars (\$15). the benefits under this section.~~

34 (c) A health care service plan may contract with qualified local,
35 statewide, or national providers, whether for profit or nonprofit,
36 for the provision of services under this section.

37 (d) A health care service plan shall disclose the benefits under
38 this section in its evidence of coverage and disclosure forms and
39 communicate the availability of coverage to all enrollees *at least*
40 *once per year.*

(e) The coverage provided pursuant to this section shall only be available upon the order of an authorized provider. Nothing in this subdivision shall preclude a plan from allowing enrollees to access tobacco cessation services on a self-referral basis.

(f) As used in this section, “course of treatment” shall be defined to consist of the following:

(1) As applied to counseling, at least four sessions of counseling, each session lasting at least 10 minutes.

(2) As applied to a prescription or over-the-counter medication, the duration of treatment approved by the FDA for that medication.

(g) Enrollees shall not be required to enter counseling in order to receive tobacco cessation medications.

(h) A health care service plan shall not impose prior authorization or stepped-care requirements on tobacco cessation treatment.

SEC. 3. Section 10123.175 is added to the Insurance Code, to read:

10123.175. (a) Every individual or group health insurance policy that is issued, amended, delivered, or renewed on or after July 1, 2011, that provides outpatient prescription drug benefits, shall include coverage for tobacco cessation services that include two courses of treatment in a 12-month period including personal counseling, which may be telephone or individual counseling, and FDA-approved medication for tobacco cessation, including prescription and over-the-counter medications. Covered treatment shall comply with, group, or individual counseling, and all medications approved by the FDA for the purpose of tobacco cessation, including all prescription and over-the-counter medications. Covered treatment shall follow recommendations in the Public Health Service sponsored 2008 clinical practice guideline, “Treating Tobacco Use and Dependence: 2008 Update,” or its successors.

(b) No copayment, coinsurance, or deductible shall be applied to benefits for over-the-counter tobacco cessation medications. Copayments for each course or treatment or prescription shall not exceed fifteen dollars (\$15). the benefits under this section.

(c) A health insurer may contract with qualified local, statewide, or national providers, whether for profit or nonprofit, for the provision of services under this section.

1 (d) An insurer shall disclose the benefits under this section in
2 its evidence of coverage and disclosure forms and communicate
3 the availability of coverage to all insureds *at least once per year*.

4 (e) The coverage provided pursuant to this section shall only
5 be available upon the order of an authorized provider. Nothing in
6 this subdivision shall preclude an insurer from allowing insureds
7 to access tobacco cessation services on a self-referral basis.

8 (f) *As used in this section, "course of treatment" shall be defined*
9 *to consist of the following:*

10 (1) *As applied to counseling, at least four sessions of counseling,*
11 *each session lasting at least 10 minutes.*

12 (2) *As applied to a prescription or over-the-counter medication,*
13 *the duration of treatment approved by the FDA for that medication.*

14 (g) *Insureds shall not be required to enter counseling in order*
15 *to receive tobacco cessation medications.*

16 (h) *A health care service plan shall not impose prior*
17 *authorization or stepped-care requirements on tobacco cessation*
18 *treatment.*

19 (f)

20 (i) This section shall not apply to ~~a Medicare supplement,~~
21 ~~short-term limited duration health insurance, vision-only,~~
22 ~~dental-only, or Champus-supplement~~ *CHAMPUS-supplement*
23 ~~insurance, or to hospital indemnity, hospital-only, accident-only,~~
24 ~~or specified disease insurance that does not pay benefits on a fixed~~
25 ~~benefit, cash payment only basis.~~

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.